

Appln. No. 10/073,346
Amendment dated December 2, 2005
Reply to Office Action of October 5, 2005

REMARKS

No amendments have been made; therefore, original claims 1-30 are pending in this application. Reconsideration of the outstanding rejections is respectfully requested. Applicants traverse the Examiner's rejections as follows.

Anticipation rejections

Claims 1, 4-9, 20 and 21 have been rejected under 35 U.S.C. §102(e) as being anticipated by Hugh (U.S. Patent No. 6,503,751). Applicants traverse the rejection on the ground that the cited art does not teach or suggest all elements of the claims. In support of the rejections, the Examiner states:

Hugh teaches an incubator comprising a housing generally including an insulated housing (12) with an interior controlled atmosphere chamber (14). Chamber (14) is accessed via an outer insulated and inner heated pair of doors (16,18). The doors are attached to the housing by way of a pair of hinges (20, 22). The door pivots from a closed to open position (and vice versa) via the hinges. At col. 11, lines 52-col. 12, line 5, Hugh teaches a door position detection circuit to determine the position of the door. Inside the housing 12 are mounted shelves. The shelves can be considered to be receptacle carriers and the spaces between the shelves (where objects to be incubated are placed) can be considered equivalent to Applicants' claimed receptacle stations. The incubator is heated via electric heating elements (79). A microprocessor (300) controls the heater, fan and gas flow into the incubator. The fan comprises a fan motor which circulates air within the incubator (col. 12, lines 51-58). Hugh further teaches that the incubator comprises a temperature sensor (314).

Applicants respectfully submit that the Examiner does not point to any features in Hugh which correspond to "a command-responsive closure mechanism connected to said housing in proximal relation to said receptacle access opening, said command-responsive closure mechanism being constructed and arranged to be movable between a closed

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position and an open position with respect to said receptacle access opening in response to corresponding closure movement commands to prevent or permit access to said housing through said access opening" as recited in our claim 1. The Examiner states that "Hugh teaches a door detection circuit to determine the position of the door." citing col. 11, line 52 - col. 2, line 5 of Hugh. A door detection circuit for determining the position of the door is not a command-responsive door movable in response to closure movement commands. Therefore, Hugh does not teach all elements of claim 1. Thus, applicants submit that the rejections of claim 1, and claims 4-9, 20 and 21, which depend from claim 1, are improper, and respectfully request withdrawal thereof.

Claims 1 and 8-23 have been rejected under 35 U.S.C. §102(e) as being anticipated by Maes *et al.* (U.S. Patent No. 6,156,565). Applicants traverse the rejection on the ground that the cited art does not teach or suggest all elements of the claims. In support of the rejections, the Examiner states:

Maes *et al.* teach an incubation station for test cards. The incubation station (600) comprises several cover panels (619) which form an enclosure for the carousel (604) and isolate the carousel from the ambient environment. The carousel (604) is vertically mounted and rotates about a horizontal axis. The carousel has a plurality of slots (614) for receiving test receptacles. The incubation station further comprises a heater and fan assembly. A first fan (637) is positioned below and behind air duct (622) which blows ambient air over heater assembly (638) which warms the air. A second fan (639) directs warmed air into the air table. Heat sensors (thermistors) are provided for controlling the operation of the heater and the temperature existing the air table.

Applicants respectfully submit that the Examiner does not point to any features in Maes which correspond to "a command-responsive closure mechanism connected to said

housing in proximal relation to said receptacle access opening, said command-responsive closure mechanism being constructed and arranged to be movable between a closed position and an open position with respect to said receptacle access opening in response to corresponding closure movement commands to prevent or permit access to said housing through said access opening" as recited in our claim 1. The Examiner states that "[t]he incubation station (600) comprises several cover panels (619) which form an enclosure for the carousel (604) and isolate the carousel from the ambient environment." These features do not, however, correspond to a command-responsive door movable in response to closure movement commands. The cover panels (619) of Maes are "a set of removable cover panels covering the machine and presenting an aesthetically pleasing appearance and allowing user access to system components" (see Maes, col. 6, lines 51-55) and do not respond to any commands. Therefore, applicants submit that the rejections of claim 1 and claims 8-23, which depend from claim 1, are improper, and respectfully request withdrawal thereof.

Obviousness rejection

Claims 2, 3 and 24-30 have been rejected under U.S.C. §103(a) as being unpatentable over Hugh (U.S. Patent No. 6,503,751) or Maes *et al.* (U.S. Patent No. 6,156,565) in view of Kawaguchi *et al.* (U.S. Patent No. 5,882,594). Applicants traverse the rejection on the grounds that the cited art does not teach or suggest the combinations of elements of the rejected claims. In support of the rejection, the Examiner states:

The disclosures of both Hugh and Maes *et al.* are described above. Both references differ from the instant invention in that there is no disclosure of a mixing means in the incubator.

Kawaguchi *et al.* teach an incubator for the pretreatment of samples. The incubator is equipped with an agitation means for agitating diluted sample, promoting the pretreatment reaction stably, and promoting the main reaction. Kawaguchi *et al.* teach agitation means in the form of vibration agitation, stirring means where the sample liquid is directly stirred or magnetic agitation.

It would have been obvious to one of ordinary skill in the art to incorporate a mixing means into the incubators of either Hugh or Maes *et al.* Such mixing means would allow a sample to be mixed so as to facilitate treatment of the sample or to facilitate reaction of the sample with added reagents.

Applicants submit that Kawaguchi does not cure the defect of Hugh and Maes, i.e., the missing "command-responsive door movable in response to closure movement commands" recited in independent claim 24 as well as independent claim 1 (from which claims 2 and 3 depend). Like Hugh and Maes, Kawaguchi does not teach a command-responsive door movable in response to closure movement commands. Therefore, the combination of Hugh or Maes with Kawaguchi still does not teach a command-responsive door movable in response to closure movement commands. Thus, applicants submit that the rejections of claims 2, 3 and 24-30 are improper, and respectfully request withdrawal thereof.

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Based on the foregoing remarks, applicants submit that the instant application is now in condition of allowance and respectfully request allowance of the instant application. The Commissioner is authorized to charge any fees or credit any overpayment pursuant to 37 C.F.R. §§1.16 or 1.17 to Deposit Account No. 02-2135.

Respectfully submitted,

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